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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,823	12/07/2001	John R. Moody	2324 (GP-00-41)	7822

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Michael W. Ferrell Esq.  
Ferrell & Ferrell, L.L.P.  
Suite 401  
90 Crystal Run Road  
Middletown, NY 10941

EXAMINER

SCHLAK, DANIEL K

ART UNIT

PAPER NUMBER

3653

DATE MAILED: 03/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application N .</b> 10/004,823	<b>Applicant(s)</b> MOODY, JOHN R.
<b>Examiner</b> Daniel K Schlak	<b>Art Unit</b> 3653	
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>		
<b>Period for Reply</b>		
<b>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</b>		
<ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>		
<b>Status</b>		
1) <input type="checkbox"/> Responsive to communication(s) filed on _____.		
2a) <input type="checkbox"/> This action is FINAL.                    2b) <input checked="" type="checkbox"/> This action is non-final.		
3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.		
<b>Disposition of Claims</b>		
4) <input checked="" type="checkbox"/> Claim(s) <u>1-20</u> is/are pending in the application.		
4a) Of the above claim(s) _____ is/are withdrawn from consideration.		
5) <input type="checkbox"/> Claim(s) _____ is/are allowed.		
6) <input checked="" type="checkbox"/> Claim(s) <u>1-20</u> is/are rejected.		
7) <input type="checkbox"/> Claim(s) _____ is/are objected to.		
8) <input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.		
<b>Application Papers</b>		
9) <input type="checkbox"/> The specification is objected to by the Examiner.		
10) <input checked="" type="checkbox"/> The drawing(s) filed on <u>07 December 2001</u> is/are: a) <input type="checkbox"/> accepted or b) <input checked="" type="checkbox"/> objected to by the Examiner.		
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).		
11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner.		
If approved, corrected drawings are required in reply to this Office action.		
12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.		
<b>Priority under 35 U.S.C. §§ 119 and 120</b>		
13) <input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).		
a) <input type="checkbox"/> All b) <input type="checkbox"/> Some * c) <input type="checkbox"/> None of:		
1. <input type="checkbox"/> Certified copies of the priority documents have been received.		
2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.		
3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).		
* See the attached detailed Office action for a list of the certified copies not received.		
14) <input checked="" type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).		
a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.		
15) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.		
<b>Attachment(s)</b>		
1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)		
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)		
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____		
4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____		
5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)		
6) <input type="checkbox"/> Other: _____		

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "52" has been used to designate both a side plate in figure 1 and a dispensing limiter in figure 4. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claim 9 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The claim has no parent explicitly recited. It simply claims "the dispensing aperture".

Claims 7 and 17 are objected to for reciting "centrally enlarged portion". It is clear that the portion being referred to is a "central" enlarged portion, which is not itself "centrally enlarged". The Examiner suggests replacing the word "centrally" with the word "central".

Claim 8 recites, in lines 1-2, "portion has a pan". It is clear that the word "pan" should be replaced with "span".

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5, 8-11, 14, 15, and 18-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the interfolded towels" in line 11. There is insufficient antecedent basis for this limitation in the claim. All previous mention of the towels refers to them as the "C-fold or interfolded towels".

Claim 3 suffers the same deficiency in line 3.

Claim 2 recites that the terminal portions project "laterally" at each end of the plate. Previous mention to "laterally" actually refers to the other direction, in the length of the towels and the length of the aperture, via the terminology "transverse length". Thus, to project laterally would mean to project "transverse", parallel to the "transverse length L" of the towels. Or, does this recitation of "laterally" mean something else? If so, such has not been described. Lateral to what?

Claims 4, 5, 14, and 15 recite "terminal surfaces have an angle of inclination of..." without giving reference to what the inclination is relative to. Is it relative to the horizontal, to the rest of the plate, to a wall of the housing, to the vertical?

Claim 8 recites the limitation "the span of the restricted terminal portions" in line 2. There is insufficient antecedent basis for this limitation in the claim. What span? Lateral or longitudinal? Relative to what?

Claim 9 recites the limitation "the transverse width" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. Which transverse width? A transverse length has been described, but there is clearly a plurality of possible "widths" involved when discussing a c-folded sheets.

Claim 10 recites the limitation "the transverse width" in line 2. There is insufficient antecedent basis for this limitation in the claim. This rejection is identical to that of claim 9, put forth above

Claim 11 recites the limitation "the periphery" in line 4. There is insufficient antecedent basis for this limitation in the claim. What periphery? The dispensing aperture has a periphery? Does it have two, or none? One would not be able to tell just from reading the claim what periphery is being referred to.

Claim 18 recites the limitation "said elongated central portion" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

Claim 18 recites the limitation "the span" in line 2. There is insufficient antecedent basis for this limitation in the claim. Which span? Longitudinal, lateral? Relative to what?

Claims 19 and 20 both recites the limitation "the transverse width" in lines 3 and 2, respectively. There is insufficient antecedent basis for this limitation in the claim. This rejection is identical to that put forth against claim 9. Which width? There could be several.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,642,836 to Merriweather, Jr.

See figure 2.

Merriweather teaches a housing defined by side walls, front wall, top portion, bottom portion, a stack of interfolded towels, and a plate which abridges the length of the dispensing aperture by about 80% of the transverse length of the towels. The plate comprises upwardly inclined terminal portions projecting upwardly at each end, wherein the aperture is abridge to about 85 percent of the length of the towels, depending upon the lengths of the towels inserted into the device of Merriweather.

The angle of inclination of the terminal portions is approximately 20 degrees in relative to something at some point during its pivoting movement.

The opening has a central enlarged portion and two restricted terminal portions defined by the terminal portions. The span of the central portion is approximately twice the span of the restricted terminal portions (in a direction lateral to the opening length). The dispensing aperture has a span of about 30 percent of a transverse width of the towels, depending upon which towels are inserted. The terminal portions have a span of about 40 percent of the abridged length of the dispensing aperture.

There are provided means for defining a lower surface about the periphery of the dispensing aperture.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Many references were found which comprise a plate with terminal portions that abridge the length of the bottom opening of a towel dispenser to 80-90%. The Examiner has applied the reference which seems to most closely resemble the invention of the instant application. However, please review *all* of the cited art prior to response.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel K Schlak whose telephone number is 703-305-0885. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh can be reached on 703-306 - 4173. The fax phone numbers for the organization where this application or proceeding is assigned are 703-306-4195 for regular communications and 703-306-4195 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308 - 1113.

dk5  
March 6, 2003



DONALD P. WALSH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600